IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 4630 of 1994

Between:

K. Narsimhan s/o. late R. Krishna Swamy, Lab Assistant,
Mechanical Engineering Department, M.V.S.R.Engineering College,

Saidabad, Hyderabad.

..... PETITIONER

AND

1 Maturi Venkata SubbaRao Engineering College, 16-1-486, Saidabad, Hyderabad-500 659, rep. by its Principal.
2 Osmania University, rep. by its Registrar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order, especially in the nature of Mandamus, - i) declaring the impugned proceedings No.B-2401/86 dated 15-3-1994 of the Principal, M.V.S.R.Engineering College, Hyderabad, as illegal, arbitrary and without jurisdiction, and set aside the same; ii) declare that the age of superannuation of the petitioner is 60 years and direct the respondents to continue the petitioner till he attains the age of 60 years and grant all consequential benefits; and iii) to grant such other relief or reliefs.

Counsel for the Petitioner : MR.V.JOGAIAH SARMA

Counsel for the Respondent No.1: MR.P.Venkata Ramana Reddy

Counsel for the respondent No.2:DEEPAK BHATTACHARJEE(S.C. FOR Osmania University)

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.4630 OF 1994

ORAL ORDER :

The petitioner seeks a declaration that the impugned proceedings dated 15-03-1994 whereunder the petitioner was sought to be superannuated on completion of 58 years on 11-02-1994 as arbitrary and illegal. He seeks a further declaration that the age of superannuation shall be 60 years and therefore the respondents shall be directed to continue him in service till he attains the age of 60 years.

The petitioner was appointed to the non-teaching post of Lab Assistant in the first respondent College on 01-01-1984. This writ petition is filed aggrieved by the proceedings of the Principal of the first respondent College dated 15-03-1994 whereunder the petitioner was informed that since he has attained the age of superannuation i.e., 58 years on 11-02-1994, as per the rules in force he is relieved of his duties with effect from 28-02-1994 AN. His case is that the first respondent

which is an unaided college and affiliated to the 2nd respondent – Osmania University, is governed by the University service conditions of the staff both teaching and non-teaching and therefore he is entitled to continue upto 60 years. It is also stated that the age of superannuation of the non-teaching staff of the Osmania University is declared as 60 years by a Division Bench of this Court in W.A.No.476 of 1987, dated 29-04-1989 and therefore the respondents ought to have allowed him to continue in service till he completes the age of 60 years.

While issuing Rule Nisi, this Court initially granted interim suspension of the impugned proceedings on 15-03-1994 in W.P.M.P.No.5697 of 1994.

The 1st respondent College filed a detailed counter-affidavit along with a petition to vacate. However, the interim order was made absolute on 30-08-1994. The 1st respondent preferred W.A.No.1120 of 1994. The Division Bench while allowing the Appeal set aside the interim order of suspension observing that in case the writ petitioner succeeds in the writ petition he would be entitled to get the salary and all allowances admissible to the post which he is holding.

I have heard the learned Counsel for the petitioner as well as the learned Counsel for the respondents.

The learned Counsel for the petitioner submits that as per the letter of the University dated 23-02-1981 the appointments of teaching and non-teaching staff should be done in accordance with the University and Government Rules basing on the work-load for non-engineering subjects. Therefore, according to learned Counsel, the first respondent College which is affiliated to Osmania University is bound to follow the rules governing Osmania University and consequently the petitioner is entitled to continue till he attains the age of 60 years.

It is relevant to note that in the counter-affidavit filed on behalf of the 1st respondent, it has been explained that for all teaching posts in the college the scales of pay prescribed by University Grants Commission and the Rules applicable for

appointment etc., as in Osmania University are being followed, whereas the Government Rules regarding recruitment, qualifications, age of superannuation etc., as applicable to the non-teaching staff in the Government Colleges are being followed so far as non-teaching posts in the first respondent College. It is further stated that Rule 5 of Service conditions prescribed by the 1st respondent – M.V.S.R. Engineering College specifies 55 years or such age that may be fixed by the Government from time to time as the age of superannuation. Subsequently, it was raised to 58 years when the Government has fixed the age of superannuation as 58 years. It is further stated that Private Engineering Colleges in the State form a category by themselves and they do not fall under any of the two categories viz., Government Aided or Un-aided colleges. It is also the specific case of the first respondent that the first respondent college has its own set of rules governing the service conditions of the staff. According to Rule 5 of its Rules the age of superannuation for the staff classified as teaching staff is 60 years and in the case of administrative, non-teaching and other staff it is 55 yeas or such age that may be fixed by the Government from time to time. The age of superannuation in respect of non-teaching staff though originally fixed as 55 years, subsequently it has been made 58 years in accordance with the decision of the State Government. Thus, it is contended that the age of superannuation for the non-teaching staff working in the first respondent College is only 58 years and the impugned proceedings have been rightly issued relieving the petitioner with effect from 28-02-1994. It is also stated that the petitioner was conscious of the fact that he was entitled to continue in service only upto 58 years and he also made a representation on 24-01-1994 seeking extension of service upto 60 years which claim was rejected in view of the specific rule under the conditions of service as applicable to the non-teaching staff of the first respondent College.

It is also to be noted that in the counter-affidavit filed on behalf of the 2nd respondent University, it is stated that the service conditions of non-teaching staff of Osmania University are not applicable to the staff of affiliated colleges of Osmnia University since the affiliated colleges are run by private managements.

Having regard to the facts and circumstances of the case and in the light of

the specific stand taken by the respondents in their respective counter-affidavits, I am unable to agree with the contention of the petitioner. The service conditions as are applicable to the non-teaching staff of Osmania University cannot be automatically extended to the non-teaching staff of a private college merely on the ground that it is affiliated to the 2nd respondent University. Nothing has been placed before this Court to show that the service conditions as are applicable to the non-teaching staff of Osmania University shall be made applicable to the employees of private colleges. In the circumstances, the impugned action of the 1st respondent cannot be said to be arbitrary or in violation of any provision of law. Hence, I do not find any substance in the contentions of the learned Counsel for the petitioner that the petitioner is entitled to continue in servie till he completes 60 years of age.

Accordingly, the Writ Petition is dismissed. No costs.

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15th July, 2004.

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To

1 The Principal, Maturi Venkata SubbaRao Engineering College, 16-1-486, Saidabad, Hyderabad-500 659.

2 The Registrar, Osmania University, Hyderabad.

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THE HON'BLE MS. JUSTICE G.ROHINI

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15th July, 2004.